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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 554th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 27 March 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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The meeting was called to order at 10.40 a.m.

STATEMENT BY THE SECRETARY OF THE SUBCOMMITTEE

1. Mr. BASNAYAKE (Secretary of the Subcommittee) said that, at the 553rd meeting, the United States representative had requested him to report on the measures taken to reduce additional non-conference servicing costs for the present session. In that connection, he recalled that, at its thirty-fourth session, the Committee on the Peaceful Uses of Outer Space had decided that the Subcommittee's present session would be held in Geneva and that the Secretariat should support that session, reducing in every possible way additional non-conference servicing costs (A/46/20, para. 156).

2. The Secretariat had always sought to keep those costs as low as would be consistant with the proper discharge of its functions. Even further efforts at economy had been made in recent years in view of the financial constraints being experienced by the United Nations. However, in response to the Committee's decision, the Secretariat had once again carefully reviewed its requirements and had managed to achieve a further reduction. Specifically, temporary secretarial assistance had been decreased, leading to a modest reduction in costs of between $800 and $900. The overall Secretariat support of the session had thus been reduced to a minimum and any further reduction was likely to have negative consequences on the Secretariat's ability to service the work of the Subcommittee successfully.

THE ELABORATION OF DRAFT PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE, WITH THE AIM OF FINALIZING THE DRAFT SET OF PRINCIPLES AT THE CURRENT SESSION (agenda item 3) (A/AC.105/484; A/AC.105/C.2/L.154/Rev.11)

3. The CHAIRMAN, introducing agenda item 3, said that the relevant section of the Subcommittee's report on its thirtieth session (A/AC.105/484) was chapter I. The report of the Chairman of the Working Group on Nuclear Power Sources was contained in annex I to that report and a number of working papers on nuclear power sources were contained in annex IV, section A.

4. The Subcommittee's work on nuclear power sources had been reviewed by the Committee on the Peaceful Uses of Outer Space at its thirty-fourth session. The Committee had reached consensus on draft principle 8 (Responsibility) and draft principle 9 (Liability and compensation), as stated in its report (A/46/20, paras. 101 to 115 and 151 (a)).

5. The question of the use of nuclear power sources in outer space was also being considered by the Scientific and Technical Subcommittee and the report of its Working Group on the Use of Nuclear Power Sources was contained in annex III to its report (A/AC.105/513). The working paper which had been submitted to that Subcommittee and contained a draft preamble to the principles relevant to the use of nuclear power sources in outer space (A/AC.105/C.1/WG.5/L.29) was to be found in the appendix to the report of the Working Group.

6. In resolution 46/45, the General Assembly had recommended that the Legal Subcommittee should continue, through its working group, the elaboration of

draft principles relevant to the use of nuclear power sources in outer space with the aim of finalizing the draft set of principles at the current session.

7. A few days previously, Canada and Germany had submitted a new working paper in document A/AC.105/C.2/L.154/Rev.11, which contained a composite text of both agreed and not yet agreed provisions on nuclear power sources principles.

8. The Subcommittee had been considering agenda item 3 for over a decade and it would be agreed by all that the elaboration of draft principles had now entered the final stage. The parent Committee had urged the Subcommittee to make every effort to arrive at a final text as early as possible, but the General Assembly had gone even further and had recommended that the principles should be finalized at the current session. He therefore urged all members of the Subcommittee to be guided by a spirit of compromise in order to carry out the task entrusted to them by the international community.

9. Mr. TETU (Canada), introducing the working paper submitted by Canada and Germany (A/AC.105/C.2/L.154/Rev.11), said that the Subcommittee's mandate with regard to the elaboration of a set of principles relevant to the use of nuclear power sources in outer space was clearly spelled out in General Assembly resolution 46/45. As stated in the fourth paragraph of the working paper, principles 1, 3, 5, 6, 7, 8, 9 and 10 had already been agreed. The Subcommittee thus had to agree on the draft preamble submitted to the Scientific and Technical Subcommittee (A/AC.105/C.1/WG.5/L.29), as well as on draft articles 1 A, 4 and 12 on which a large measure of agreement already existed. It would also have to tighten up the text before the whole set of principles could be finalized.

10. His delegation called on all other delegations to help conclude that key environmental exercise at the current session, thereby making a significant contribution to the celebration of International Space Year.

11. Mr. RAO (India) said the aim of the Committee on the Peaceful Uses of Outer Space and its Subcommittees in dealing with agenda item 3 was to ensure that the use of nuclear power sources in outer space did not result in danger to populations and the environment or to the missions and space objects involved. To that end, the Scientific and Technical Subcommittee was called upon to formulate guidelines and criteria to provide satisfactory safety measures. The task of the Legal Subcommittee was to provide "legal clothing" for the provisions adopted by the Scientific and Technical Subcommittee, as well as to set other legal standards for the use of nuclear power sources and to deal with situations where damage occurred as a result of the use of such sources.

12. It had thus become necessary to deal with the legal issues of information, safety assessment, notification of re-entry, consultations, assistance, responsibility and liability. Any meaningful set of principles obviously had to be both scientifically and technically strict and legally comprehensive.

13. The Subcommittee had reached consensus on most of the draft principles, but there were still some outstanding issues that had to be discussed at the

current session. His delegation was one of the sponsors of the draft preamble prepared by the Scientific and Technical Subcommittee and considered that the draft principles should be prefaced by such a text. Obviously, the purpose of the preamble was to introduce the operative part of the text without overriding its substance in any way.

14. The outstanding issues related to principle 2 on notification and principle 4 on safety assessment. Notification involved details of launching, such as location, site and time, which were made available to the Secretary-General of the United Nations in accordance with the 1975 Convention on Registration of Objects Launched into Outer Space.

15. The principle of safety assessment related to the phases of the mission and the systems involved, including the means of launching, the space platform, the nuclear power source and its equipment and the communication subsystem. Safety assessment was of obvious importance for any legal regulation of nuclear power sources and a consensus between the differing views would have to be worked out. One view, which India itself had held so far, was that notification and safety assessment were two different and independent principles. In order to promote consensus, however, his delegation was prepared to give up that position and agree on a merger. India had also held the view that notification and safety assessment should be made prior to each launch, but it was prepared to see the requirement of prior information dispensed with in so far as notification was concerned. That requirement should, however, be retained in respect of safety assessment. His delegation hoped that other delegations would be equally accommodating and it was willing to work with them in order to find compromise wording.

16. The developing countries, including India, were concerned about a situation in which an outer space object with nuclear power sources on board was launched from the territory of a State and the equipment, design, manufacturing of the object were all done by another State or its agency. Only the latter would have full and complete scientific and technical knowledge of the project. If, owing to a scientific or technical fault, the object failed, causing damage to a third State, there should be some responsibility for the manufacturing State, which has technical knowledge in the matter. That responsibility should relate to the requirements of safety assessment, observance of scientific and technical guidelines, costs of assistance in clean-up operations and compensation for damage.

17. He was not contending that the State from whose territory the launch was made had no international accountability, but he did want to stress that the type of launch was an equally important legal consideration which should go into defining what constituted a "launching State" for the purpose of dealing with the legal consequences and promoting international cooperation in the exploration and utilization of outer space, taking into particular account the needs and interests of developing countries.

18. His delegation was opposed to the reopening of the discussion on the principles on which consensus had already been arrived at because every

delegation was bound to have a problem with one principle or another and, once the discussion was reopened, the principles might all have to be reconsidered.

19. Mr. van de VELDE (Netherlands) said that the working paper contained in document A/AC.105/C.2/L.154/Rev.11 fully reflected the discussions held and the progress made at the twenty-ninth session of the Scientific and Technical Subcommittee and provided a solid basis for finalizing the draft set of principles on nuclear power sources. His delegation fully supported the goal of Germany and Canada that the principles should be finalized at the current session of the Legal Subcommittee, as recommended by the General Assembly in its resolution 46/45.

20. The Committee on the Peaceful Uses of Outer Space and its Subcommittees had been involved in the elaboration of draft principles relevant to the use of nuclear power sources in outer space for over 10 years. The views and opinions of all interested delegations were well-known and what was possible and what was beyond reach had also become quite clear. His delegation therefore hoped that the working paper would prompt a constructive dialogue and creative solutions so that the Subcommittee could overcome the remaining obstacles and agree on a final set of principles.

21. The draft preamble submitted to the Scientific and Technical Subcommittee (A/AC.105/C.1/WG.5/L.29) should also help the Legal Subcommittee complete the set of draft principles at the current session. Such an achievement would emphasize the growing consensus within the United Nations on a broad range of issues, confirm the credibility of multilateral diplomacy and contribute to International Space Year.

22. Ms. GRAEFIN von ROEDERN said that the working paper contained in document A/AC.105/C.2/L.154/Add.11 included all the principles which had been adopted so far, a number of principles still under consideration and a preamble. The text of the preamble was the one which had been drawn up at the last session of the Scientific and Technical Subcommittee and it was to be hoped that it would be adopted at the current session of the Legal Subcommittee.

23. Principle 1 A was still under discussion, although the Committee on the Peaceful Uses of Outer Space had considered that it should be ready for adoption at the Subcommittee's current session. Principle 4 had also been considered ready for adoption, as it reflected the consensus achieved in 1990 in the Scientific and Technical Subcommittee, whose Working Group had noted that countries launching nuclear power sources should conduct safety assessments of those systems and make those assessments publicly available.

24. Principle 12, containing the revision clause, had basically been agreed on by the Scientific and Technical Subcommittee, which had reached a consensus that the principles relevant to nuclear power sources should be reviewed after their adoption, but had not set a specific deadline for such a review.

25. Her delegation was entirely open as to the time-frame suggested in principle 12. Since nuclear power sources involved high technology, it was prepared to shorten the revision period to as little as two to five years.

26. The Legal Subcommittee had been working on the nuclear power source principles for over 10 years and her delegation therefore appealed to all other delegations to work towards a consensus on the entire set of principles so that they might be adopted in 1992, thereby making a fruitful contribution to International Space Year.

The meeting rose at 11.25 a.m.